



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

**Review of the
Drug Enforcement
Administration's Custodial
Accountability for Evidence
Held at the Field Divisions**

Report Number I-2004-003

January 2004

EXECUTIVE DIGEST

The Drug Enforcement Administration (DEA) often seizes or takes custody of evidence while enforcing federal laws and regulations for controlled substances. In 1999, the General Accounting Office (GAO) identified weaknesses in the DEA's accountability over drug evidence that could increase the potential for theft, misuse, or loss, thus compromising the evidence for federal prosecution.¹ In 2001, the DEA Administrator directed the DEA Office of Inspections (Office of Inspections) to review custodial accountability for five categories of evidence.² After reviewing internal inspections conducted at all 21 DEA domestic field divisions from 1999 through 2000, the Office of Inspections concluded in its report entitled *Review of Custodial Accountability for: Drug Evidence, Non-Drug Evidence, Seized Monies, Recovered Monies, and Technical Equipment*, February 2001, that DEA's problems with custodial accountability remained unresolved.

The Office of the Inspector General (OIG) evaluated the DEA's progress in correcting custodial accountability problems identified in the DEA Office of Inspections' report. We found that more than two years after this review was released, and four years after the GAO determined that the DEA needed to strengthen accountability for drug evidence, the DEA still had not corrected deficiencies identified by DEA's internal inspections, including implementing program guidance, improving Headquarters support, or developing training. Consequently, some DEA field division staff continue to handle and store evidence improperly.³ According to our survey of Assistant United States Attorneys (AUSAs), DEA's recurring problems with custodial accountability have not yet adversely impacted federal prosecutions. However, our review of DEA's internal investigations of employee misconduct between June 2001 and September 2002 disclosed several instances of evidence loss.

¹ GAO, *Seized Drugs and Weapons: DEA Needs to Improve Certain Physical Safeguard and Strengthen Accountability*, AIMD-00-17, November 1999.

² Custodial accountability is defined as accounting for evidence completely, accurately, and promptly to help ensure that evidence is not compromised for federal prosecutions and that it is protected against theft, misuse, or loss.

³ We focused on seized drugs and monies because their value increases the risk of theft, misuse, and loss.

RESULTS IN BRIEF

The DEA Has Failed to Correct the Deficiencies Identified as Contributing to Custodial Accountability Problems at the DEA Field Divisions. In 2001, the DEA Administrator directed the Office of Inspections to review five evidence program areas because custodial accountability problems continued to be reported during internal inspections. The Office of Inspections' review identified the following problems. The DEA did not have enough non-agent Evidence Custodians and was routinely using Special Agents to perform almost all of DEA's custodial duties.⁴ Special Agents' collateral evidence duties became the primary duty assignment in ten offices along the Southwest Border. Evidence Custodians needed clearer guidance and were uncertain about their responsibilities for maintaining logbooks, the DEA had no central point-of-contact for uniform evidence guidance, and Evidence Custodians lacked formal training.

The Office of Inspections issued six recommendations to resolve these recurring problems including conducting two workload studies, creating an Evidence Custodian Handbook, obtaining pre-printed logbooks, identifying a single headquarters point-of-contact to respond to inquiries regarding evidence, and developing comprehensive training for Evidence Custodians. In June 2001, the DEA Administrator approved the recommendations. We evaluated the DEA's implementation of the six recommendations and found that the DEA has implemented two, but has not implemented the remaining four. The DEA conducted two workload studies and hired more Evidence Custodians, but it still has not produced an Evidence Custodian Handbook, required the field to use pre-printed logbooks, identified a single point-of-contact that is an expert on evidence, or developed a comprehensive training program for Evidence Custodians.

When we asked why the DEA did not implement four of the six recommendations, an Office of Inspections official stated that the DEA distributed the report to its Executive staff, but it was never distributed to the appropriate offices for action. According to the official, the DEA Administrator who had requested the review left the agency shortly after approving the final report and recommendations, and new DEA management did not ensure that the recommendations were implemented. When we contacted officials from the two offices responsible for implementing the recommendations, the Office of Operations Management

⁴ We use the term Evidence Custodian to include all DEA field division staff assigned evidence custodial duties in a full or part-time capacity.

(OM) and the Office of Training (TR), they told us that they were unaware of the Office of Inspections' report, and their responsibility for implementing specific recommendations.

Below are the Office of Inspections' recommendations approved in June 2001 and their current implementation status.

- DEA Recommendation 1 – conduct a workload analysis that specifically addresses the evidence workloads for division office Evidence Custodians and the collateral duties of the Special Agents.

Status: In fiscal year (FY) 2003, the DEA fulfilled this recommendation by analyzing the overall workload for Special Agents. The DEA requested 85 new administrative support positions in its FY 2004 budget request to improve the use of its Special Agent resources.

- DEA Recommendation 2 – conduct a workload/staffing analysis that specifically addresses the manpower issues and the need for full-time Evidence Custodians for handling bulk marijuana along the Southwest Border.

Status: In November 2001, the DEA completed its Southwest Border workload analysis and, as a result, began hiring additional full-time non-agent Evidence Custodians for the Southwest Border. In FY 2000, the DEA had 33 full-time non-agent Evidence Custodians and now has 39 full-time non-agent Evidence Custodians, 14 of whom are assigned to Southwest Border field divisions.

- DEA Recommendation 3 – create an Evidence Custodian Handbook with a comprehensive set of policies and standard operating procedures that ensure uniformity and assist Evidence Custodians with ensuring proper accountability.

Status: The DEA plans to update evidence handling sections of the Special Agents Manual in FY 2004, but has no plans to develop a separate Evidence Custodian Handbook.

- DEA Recommendation 4 – obtain and use pre-printed logbooks for all field division offices to ensure standardization, proper evidence accountability, and compliance with audit requirements.

Status: Not all field divisions obtained and use pre-printed logbooks. For example, in the DEA San Diego Field Division, only one of four Evidence Custodians had a pre-printed logbook. The use of pre-printed logbooks by Evidence Custodians is not uniform because it is not required.

- DEA Recommendation 5 – identify a single point-of-contact (expert) at DEA Headquarters to respond to inquiries regarding evidence.

Status: OM designated itself as the point-of-contact for inquiries regarding evidence and we found that most Evidence Custodians know that they can contact OM with questions. However, Evidence Custodians seek assistance from other Evidence Custodians because they have experience and expertise that OM does not have for interpreting guidance in the Special Agents Manual.

- DEA Recommendation 6 – develop a comprehensive, formal training program for personnel assigned custodial duties, and require attendance within three months of assignment.

Status: The DEA did not develop a comprehensive training program for personnel assigned custodial duties. In fact, the only formal training available to Evidence Custodians is on how to input evidence data in the DEA’s Enhanced Non-Drug Evidence Data System (ENEDS).⁵

Custodial Accountability Problems Persist at the DEA Field

Divisions. We examined 13 internal inspection reports issued from June 2001 through January 2003 and found recurring and unresolved custodial accountability problems similar to those identified by the GAO in 1999 and by the Office of Inspections in 2001. These problems persist in field divisions despite mandatory annual reviews of the evidence program using Office of Inspections’ checklists, despite certification that evidence program deficiencies were corrected, and despite the use of ENEDS. Eight of 13 field divisions (62 percent) were cited for infractions involving drug evidence, including improperly processed exhibits; improperly maintained logbooks;

⁵ The DEA developed the Non-Drug Evidence Database System (NEDS) in the early 1990s and replaced it with the Enhanced Non-Drug Evidence Database System (ENEDS) in 1999. Non-Drug Evidence Custodians use ENEDS to track non-drug evidence, bulk drugs, and seized and recovered monies checked in or out of the vault. Non-Drug Evidence Custodians also use ENEDS to facilitate the annual inventory of evidence within the vault and generate a variety of reports. As of January 1, 2003, ENEDS was available at 158 sites.

discrepancies in the seizure, submission, and reporting of drug and non-drug evidence; improper temporary storage; and no annual inventory or failure to reconcile inventory discrepancies. Three of the 13 field divisions (23 percent) were cited for infractions related to improper processing of seized monies, including non-DEA employees serving as custodians, improperly maintained logbooks, improper storage, or failure in conducting required audits.

In 1999, the GAO cautioned that DEA's weaknesses in the accountability over evidence could increase the potential for theft, misuse, or loss of such evidence, and could compromise federal prosecutions. The DEA responded to GAO by saying that the DEA has redundant controls in place to ensure that the integrity of evidence is maintained at all times and that shortcomings in one control will not result in an accountability problem.

To determine the validity of DEA's assertions and verify that DEA's recurring custodial accountability problems have not compromised evidence to be used in federal prosecutions, we surveyed 422 AUSAs responsible for prosecuting federal drug and asset forfeiture cases. All who responded reported that they believed that the DEA safeguards the integrity of seized drugs and monies, and none reported a federal prosecution adversely impacted by DEA's custodial accountability problems. However, when we reviewed DEA's internal investigations regarding the loss or theft of evidence, we found that since June 2001 the DEA imposed discipline in five cases involving accountability deficiencies that led to the loss of seized drugs or monies.

Office of Inspections' Recommendations for Guidance and Training Remain Valid. Because two years have passed since the DEA Administrator approved the Office of Inspections' recommendations, we evaluated whether the DEA should implement the remaining four recommendations. We concluded that the original recommendations are still valid. First, the DEA should ensure that all Evidence Custodians have pre-printed logbooks because the Office of Inspections continues to find problems with logbooks during field inspections. Using pre-printed logbooks would help resolve some of the problems identified by the Office of Inspections by ensuring that all Evidence Custodians use the same data fields to track evidence in their custody. Second, the DEA should appoint an expert point-of-contact for evidence issues. Evidence Custodians seek assistance from other Evidence Custodians because they have experience and expertise that OM does not have for interpreting guidance in the *Special Agents Manual*. As a consequence, Evidence Custodians receive guidance

from other Evidence Custodians that may or may not be correct, and DEA Headquarters does not have the opportunity to provide uniform guidance, track questions, and identify common trends to improve DEA evidence handling policies.

Third, the DEA should develop a handbook for Evidence Custodians because the *Special Agents Manual* does not currently outline standard operating procedures specifically for Evidence Custodians. In addition, some Evidence Custodian positions in smaller offices have frequent turnover, and an Evidence Custodian Handbook would provide greater uniformity in evidence handling. Fourth, the DEA should provide comprehensive training for Evidence Custodians because given the lack of available formal training, several DEA field divisions have developed their own written guidance and training for Evidence Custodians. This results in Evidence Custodian guidance and training that vary in quality and uniformity throughout the DEA. In contrast, the Federal Bureau of Investigation (FBI) provides all of its Evidence Custodians with a booklet regarding pertinent evidence handling sections from its *Manual of Administrative Procedures*, and mandatory in-service training for one week.

RECOMMENDATIONS

We are making two recommendations to help the DEA improve custodial accountability over seized drugs and monies. We recommend that the DEA:

1. Implement the Office of Inspections' four remaining evidence program recommendations by:
 - a. Developing an Evidence Custodian Handbook,
 - b. Requiring Evidence Custodians to use pre-printed logbooks,
 - c. Identifying and designating a DEA employee with evidence custodian expertise to serve as the point-of-contact for all Evidence Custodians, and
 - d. Developing a comprehensive training program for personnel assigned Evidence Custodians duties.
2. Verify during field inspections that Evidence Custodians have an Evidence Custodian Handbook, use pre-printed logbooks, know

the point-of-contact for evidence issues, and attend appropriate Evidence Custodian training.

TABLE OF CONTENTS

INTRODUCTION	1
Background	1
Purpose and Methodology	6
RESULTS OF THE REVIEW	8
The DEA Has Not Corrected its Custodial Accountability Problems.....	8
Four of Six Recommendations Not Implemented.....	8
Custodial Accountability Problems Persist.....	13
Recommendations From 2001 Remain Valid	16
CONCLUSIONS AND RECOMMENDATIONS	21
APPENDIX I: Office of Inspections’ Recommendations	23
APPENDIX II: OIG Survey Instrument.....	25
APPENDIX III: The DEA’s Response	28
APPENDIX IV: The OIG’S Analysis of the DEA’s Response.....	32

BACKGROUND

THE DEA's MISSION

The DEA enforces federal laws for controlled substances by investigating those individuals involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for the United States.⁶ In the course of its duties, the DEA often seizes, stores, processes, and disposes of evidence that is used for federal prosecutions. The DEA relies on Evidence Custodians in its field divisions to receive, safeguard, track, and dispose of several categories of evidence and account for evidence completely, accurately, and promptly.⁷ By doing so, Evidence Custodians preserve the chain-of-custody and help protect evidence against the risk of theft, misuse, or loss. According to the International Association of Chiefs of Police, the evidence control function performed by Evidence Custodians has become a relatively complex management task that requires a good working knowledge of contemporary practices in the field, the ability to deal effectively with law enforcement personnel and the courts, and knowledge of federal law governing the handling and disposition of evidence.

Every three years, the Office of Inspections inspects each DEA field division and evaluates 11 program areas, one of which is evidence, to determine field compliance with statutes, regulations, policies, and procedures.⁸ If the Office of Inspections finds a deficiency in a program area, it issues to the field division a Recommendation, a Schedule of Finding (SOF), or a Significant Deficiency (SD), which the field division is required to correct. A Recommendation is issued when a minor deficiency has been identified that requires attention or corrective action. A SOF is more serious, and is issued when the Office of Inspections finds one or more of the following factors affecting a program area:

⁶ Title 21 USC, Chapter 13, Sections 801-971.

⁷ Field division Evidence Custodians receive, safeguard, track, and dispose of drug evidence (prior to its transfer to a DEA forensic laboratory), bulk marijuana, non-drug evidence, and seized monies.

⁸ During the intervening years, each field division reviews five program areas (evidence, enforcement management, enforcement effectiveness, financial management, and the confidential source programs), reports to the Office of Inspections any deficiencies, and certifies that they have been corrected.

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1. The program area or individuals are not functioning in accordance with established guidelines, policies, and procedures,
 2. The quality or condition of a program has been identified as deficient, or
 3. The deficiencies are adversely affecting the efficiency or effectiveness of an inspected entity.

A SD is issued when a serious and pervasive problem is identified as interfering with the stated function or mission of the inspected entity, or when there is a flagrant violation of governing statutes, policies, rules, or regulations negatively affecting a program area or office.⁹

When a field division receives either a SOF or SD, the Special Agent in Charge (SAC) must correct the deficiency within 60 days after the inspection is completed. The SAC also must provide the Office of Inspections with a written status of actions taken or initiated to correct the deficiencies. If the SAC does not take corrective action, the Office of Inspections will inform the DEA's Board of Professional Conduct and the Deputy Administrator, who take appropriate action.

PREVIOUS REPORTS ON DEA CUSTODIAL ACCOUNTABILITY

The GAO identified custodial accountability problems with drug evidence in 1999. In November 1999, the GAO identified weaknesses in the DEA's accountability over drug evidence that increase the potential for theft, misuse, or loss of such evidence. The GAO noted that the division offices and laboratories had policies and procedures to ensure accountability over drug evidence, but did not always follow them. During site visits, the GAO found:

- Incomplete and missing documentation over drug evidence, including chain-of-custody documentation;
- Weaknesses in recordkeeping of drug and weapon evidence; and

⁹ DEA Planning and Inspections Manual Section 8214.1 - 8214.4.

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- Weaknesses in accounting for drug weights, including unverified and unexplained weight differences in drug exhibits.

The GAO also found that DEA's internal inspection teams reported errors and inaccuracies in recordkeeping during inspections from March 1996 through August 1998. Although DEA officials were always able to locate selected drug evidence for review, GAO reported that the evidence weaknesses were systemic and that DEA's redundant controls were unable to ensure the integrity of evidence at all times. The GAO recommended that the DEA Administrator reinforce DEA's adherence to existing DEA policies regarding evidence, and modify existing DEA policy for the forms used to account for bulk marijuana and the process for weighing drugs prior to submission to the DEA forensic laboratories. According to the GAO, the DEA agreed to the recommendations and implemented them.

The Office of Inspections identified recurring custodial accountability problems in 2001. In June 2001, the DEA Administrator directed the Office of Inspections to review DEA's custodial accountability for five categories of evidence. The Office of Inspections reviewed its own inspection reports from 1999 through 2000 for all 21 domestic field divisions, and found that 13 of the 21 field divisions (62 percent) received a SOF for infractions involving drug evidence, including improper processing of exhibits, improper maintenance of logbooks, non-compliance with proper destruction procedures, commingling of drug and non-drug evidence, and improper temporary and long-term drug storage.¹⁰ The Office of Inspections also found that 10 of the 21 field divisions (48 percent) received a SOF related to seized and recovered monies, including non-compliance in conducting quarterly inventories, improper maintenance of logbooks, lack of a Seized and Recovered Monies Custodian, improper storage or maintenance of monies, lack of proper or timely transfer of seized monies to the U.S. Marshals Service, and seized monies not processed by appropriate personnel.

After surveying DEA Evidence Custodians, the Office of Inspections identified five underlying causes for the custodial accountability problems.

1. Overall Staffing. The Office of Inspections determined that the DEA did not have enough full-time Evidence Custodians, and that Evidence Custodians were often overwhelmed with other collateral

¹⁰ At the time, the Office of Inspections inspected all 21 field divisions on a two-year cycle.

duties such as fleet management. As a result, the DEA used Special Agents to perform on a part-time basis almost all of DEA's evidence custodial duties, which is an administrative rather than an enforcement duty. Respondents to the Office of Inspections' survey, comprising both Special Agents and non-agent Evidence Custodians, reported the following amounts of time spent on evidence duties per week:

- From a few hours per week to as many as 60 hours per week spent processing drug and bulk drug evidence.
- From a few hours per week to as many as 40 hours per week spent processing seized cash evidence.

Based on these estimates, the Office of Inspections concluded that the DEA used a significant amount of Special Agent time on custodial duties rather than on case investigations.

2. Southwest Border Staffing. The Office of Inspections found that Special Agents assigned to collateral Evidence Custodian duties along the Southwest Border spent more than half their time processing evidence, and at some field offices evidence handling had become a full-time responsibility. The Office of Inspections concluded that these offices should hire full-time non-agent Evidence Custodians to process the massive volume of evidence seized, usually bulk marijuana, and return Special Agents to enforcement duties.
3. Guidance. The Office of Inspections found that Evidence Custodians did not complete logbooks accurately because they were unclear about their responsibilities. The Office of Inspections also noted the lack of standardization in evidence handling procedures, and insufficient Evidence Custodian guidance provided in the *Special Agents Manual*. The Office of Inspections concluded that the DEA needed to obtain pre-printed logbooks for Evidence Custodians, and clarify certain policies and procedures, especially evidence handling requirements for Evidence Custodians.
4. DEA Headquarters Support. The Office of Inspections found that the DEA did not designate a primary evidence program expert at DEA Headquarters to provide uniform guidance to Evidence

Custodians. As a result, Evidence Custodians called different offices at Headquarters to find answers to their questions.

5. Training. The Office of Inspections reported that 39 percent of survey respondents in charge of drug evidence and 45 percent of survey respondents in charge of seized money had received no formal training. Most incoming Evidence Custodians received informal training from outgoing Evidence Custodians.

The Office of Inspections concluded that problems with custodial accountability at field offices would continue until DEA Headquarters addressed the overall issues of staffing, training, and guidance. In February 2001, the Office of Inspections made six recommendations to improve DEA's custodial accountability for evidence (Appendix 1). On June 11, 2001, the DEA Administrator signed the report that directed the Office of Resource Management (FR), the Office of Operations Management (OM), and the Office of Training (TR) to implement the recommendations.

PURPOSE AND METHODOLOGY

PURPOSE

We conducted this review to examine the DEA's progress in correcting its custodial accountability problems at its field divisions. We focused on DEA's progress in implementing the six recommendations related to custodial accountability for drug evidence and seized monies made in the DEA Office of Inspections' *Review of Custodial Accountability for: Drug Evidence, Non-Drug Evidence, Seized Monies, Recovered Monies, and Technical Equipment*, February 2001. We examined accountability for seized drugs and monies because their value increases the risk of theft, misuse, and loss.

METHODOLOGY

Interviews. We conducted in-person and telephone interviews with personnel from the DEA's Office of Domestic Operations (DO), Office of Inspections, Office of Operations Management (OM), Office of Professional Responsibility (OPR), Office of Resource Management (FR), Office of Training (TR), Executive Policy and Strategic Planning Staff, Board of Professional Conduct, Disciplinary and Deciding Officials, and the San Diego Field Division. We also interviewed the current DEA Administrator, Evidence Custodians, the Program Manager for Evidence at the FBI, and officials from the Executive Office for United States Attorneys.

San Diego Field Division. Based on documentation provided by DEA Headquarters, we selected one field division office with a large volume of drug seizure activity. Within that field division, we visited all four DEA resident offices and the DEA's Southwest Laboratory.

Office of Inspections' Reports. We reviewed 13 internal inspection reports from June 2001 through January 2003. We did not review inspection reports for DEA foreign offices. We selected June 2001 as the starting date because this is when the DEA Administrator approved the Office of Inspections' recommendations.

Office of Professional Responsibility Cases. We examined Office of Professional Responsibility (OPR) case investigations categorized as the "Loss or Theft of Drug Evidence" or "Theft of Defendant's Property/Funds" from June 2001 through September 2002 to identify whether the loss or theft was due to situations beyond the DEA's control (e.g. lost by another

agency participating in the investigation), and, if not, whether the theft or loss of drugs or monies was substantiated.¹¹ We excluded all cases from FY 2003 because disciplinary action was still pending for some of those cases.

OIG Survey of AUSAs. We surveyed 422 AUSAs that handle prosecutions related to seized drugs and monies in the 94 U.S. judicial districts. We asked the AUSAs to provide their views on the integrity of the DEA's chain-of-custody for seized drugs and monies. Of the 422 surveys sent, we received 120 responses from AUSAs in 77 of the 94 judicial districts. A copy of the survey instrument is included in Appendix II.

Additional Research. We reviewed the DEA's *Special Agents Manual* (FY 2003), training guides and lesson plans from the DEA Academy, Division Orders, staffing data, budget data requests for FY 2000 through FY 2004, and enforcement operations data for FY 2000 through FY 2003. We also reviewed two OIG reports entitled *Office of Inspections in the DEA* (August 1992) and *Review of the DEA Self-Inspection Program* (March 1996), GAO reports, and congressional testimony.

¹¹ Because the OIG is conducting an audit of the DEA's forensic laboratories that includes evidence handling, we did not consider cases that occurred at the laboratories.

RESULTS OF THE REVIEW

THE DEA HAS NOT CORRECTED ITS CUSTODIAL ACCOUNTABILITY PROBLEMS AT THE FIELD DIVISIONS

We found that DEA management failed to implement most of the recommendations from its 2001 internal review of custodial accountability. DEA's internal inspections of field divisions continue to identify custodial accountability problems for seized drugs and monies. Our interviews with Evidence Custodians and examination of custodial guidance and training demonstrate that the DEA's recommendations remain valid, and their implementation would improve custodial accountability at the field divisions.

Four of Six Recommendations Have Not Been Implemented. We found that the DEA did not implement four of the six recommendations for solving the field divisions' custodial accountability problems identified by the Office of Inspections in 2001. The DEA has not produced an Evidence Custodian Handbook, required the field to obtain and use pre-printed logbooks, identified an evidence program expert at the DEA Headquarters, or developed a comprehensive training program for Evidence Custodians. When we asked why the DEA did not implement these recommendations, an Office of Inspections official who worked on the 2001 review stated that the DEA distributed the report to its Executive staff but it was never distributed to the appropriate offices for action. According to the official, the DEA Administrator who requested the review left the agency shortly after approving the final report and recommendations, and DEA management did not ensure that the recommendations were implemented. When we contacted OM and TR officials, they told us that they were unaware of the Office of Inspections report, its recommendations, and their responsibility for implementing specific recommendations tasked to their respective offices.

Below are the Office of Inspections' recommendations from the 2001 report, and our analysis of the implementation status.

DEA Recommendation 1: The Office of Resource Management should conduct a workload analysis related to the custodial duties. It should specifically address the

workload issues of the division office custodians and the collateral duties of the Special Agents.

DEA Recommendation 2: The Office of Resource Management should conduct a workload analysis, assessing the duties for handling evidence in the Southwest Border resident offices.

The DEA Completed Two Workload Studies. In response to Recommendations 1 and 2, the Office of Resource Management (FR) conducted two workload studies. The first study, completed in November 2001, showed that the DEA could add 16 additional full-time Evidence Custodians at 25 Southwest Border offices. The DEA Chief Financial Officer, in consultation with the FR, analyzed the workload data and requested congressional authorization for nine new Evidence Custodian positions at selected Southwest Border offices. On February 13, 2003, the DEA Administrator authorized changes to the DEA Table of Organization to include nine additional Evidence Custodian positions along the Southwest Border. DEA filled six of the nine new Evidence Custodian positions by transferring personnel from other DEA offices or reclassifying existing positions. As of August 2003, the DEA had not filled the remaining three Evidence Custodian positions.

In FY 2002, the DEA conducted a second workload study consisting of a field division survey and an analysis of investigative work hours to determine the amount of time Special Agents spent on administrative duties. The study found that:

Special Agents' work hours devoted to non-investigative work, such as technical operations, inventory management, evidence management, security, program coordination, etc. equaled 190 Full-time Equivalents (FTE)... In summary, the DEA is currently incurring excessive personnel costs because senior Special Agents are sometimes performing collateral duties that could be effectively handled by a Professional/Administrative or Technical/Clerical position costing 60 percent less than a senior Special Agent.

Of the 190 FTE devoted to non-investigative work, approximately 39 FTE were for processing evidence. The DEA used the second workload study to support its FY 2004 congressional budget request for 85 new "administrative support [positions] to improve the utilization of its current [Special Agent] resources." If the budget request is approved, the DEA

estimates that approximately 80 Special Agent FTE currently spent on administrative duties will be reallocated to investigative duties.

DEA Recommendation 3: The Office of Operations Management should produce an Evidence Custodian Handbook for the use of personnel assigned custodial duties in the program areas of drug evidence, bulk drug evidence, non-drug evidence, seized monies, and recovered monies.

We found that as of November 2003, the OM had not produced an Evidence Custodian Handbook and officials said they had no plans to do so. Evidence Custodians told us that they discussed with DEA Headquarters staff the need to develop an Evidence Custodian Handbook specific to their duties and responsibilities at an Evidence Custodian Conference held in April 2003. However, they did not know if a handbook was ever developed.

When we asked OM officials why they do not plan to develop an Evidence Custodian Handbook, they told us that a handbook was not necessary for four reasons:

1. The *Special Agents Manual* guidance is adequate and OM plans to update the evidence handling sections in FY 2004,
2. OM already developed an operating manual for Evidence Custodians that use the Enhanced Non-Drug Evidence Data System (ENEDS),
3. Shortcomings in evidence handling are caused by poor compliance with the policies and procedures outlined in the *Special Agents Manual*,
4. Creating an Evidence Custodian Handbook could increase noncompliance by having two sets of policy and procedures in the field. It could also create difficulties for Special Agents in court when they testify about how they processed evidence.

We considered OM's four reasons and determined that Evidence Custodians need a handbook. Evidence Custodians told us that they need standard operating procedures and information that is specific to their duties because neither the *Special Agents Manual* guidance nor the ENEDS operating manual answers all their questions about evidence handling, storage, and disposal. By answering Evidence Custodian's questions about

evidence handling, storage, and disposal in an Evidence Custodian Handbook, the DEA can improve their compliance with evidence handling policies and procedures.

The reasoning regarding conflicting sets of policy and procedures is similarly flawed. A handbook for Evidence Custodians will eliminate the need for individual field divisions to issue their own Division Orders providing supplemental guidance to their Evidence Custodians on how to receive, safeguard, track, and dispose of evidence. Finally, an Evidence Custodian Handbook will not create difficulties for Special Agents because they need not receive a copy, or, if it is available on the Intranet, have access to it, unless they are assigned Evidence Custodian duties.

DEA Recommendation 4: Field division offices should obtain pre-printed logbooks for all field division offices to ensure standardization, proper evidence accountability, and compliance with audit requirements.

We found that not all field division offices have obtained and use pre-printed logbooks to ensure standardization, proper evidence accountability, and compliance with audit requirements. For instance, at the DEA San Diego Field Division, only one of the four Evidence Custodians we met had and used a pre-printed logbook. In another field division, an Evidence Custodian told us that she has pre-printed logbooks, but that the Office of Inspections changed the column titles, and, in order to comply with the new requirements, she now uses both pre-printed and handwritten logbooks.

Until the *Special Agents Manual* is revised to require the use of pre-printed logbooks, and Evidence Custodians use them consistently, the DEA will continue to have problems with logbook standardization and noncompliance with audit requirements for evidence. Since logbook standardization helps ensure that all Evidence Custodians complete the same required information when receiving, checking out, and disposing of evidence, it is one way to improve custodial accountability, which, in turn, decreases the risk that evidence can be stolen, misused, or lost.¹²

DEA Recommendation 5: The DEA should identify a single point-of-contact (expert on drug/bulk drug, and non-drug evidence, including seized monies and Official Advance

¹² OM officials informed us that ENEDS will replace paper logbooks, possibly in FY 2005.

Funds) at DEA Headquarters to respond to inquiries regarding evidence.

We found that OM has not met the intent of this recommendation. OM officials originally told us that they identified a staff coordinator as the point-of-contact for Evidence Custodians. Later, OM officials modified their response and stated that Evidence Custodians call the main OM telephone number and are redirected to any one of several staff members. By not identifying a single Headquarters point-of-contact for evidence, the DEA cannot effectively manage and coordinate inquiries from the field, or ensure it provides uniform guidance to Evidence Custodians, tracks questions, and identifies common trends for future policy updates. One Evidence Custodian told us that she does not call OM because its staff answers questions based on how Special Agents should process evidence, but not necessarily on how Evidence Custodians should handle the evidence in their custody. Another Evidence Custodian told us that “no one stays in policy [OM] long enough to become experts” and therefore the DEA does not have an “evidence guru.” Almost all of the Evidence Custodians we interviewed identified Evidence Custodians in other field divisions as the experts they consult to answer their questions regarding evidence. As a consequence, Evidence Custodians receive guidance from other Evidence Custodians that may or may not be correct.

DEA Recommendation 6: The Office of Training, in conjunction with the Office of Operations Management, should develop a comprehensive training program for personnel assigned custodial duties. Specifically, training for all Evidence Custodians should be scheduled within three months of assignment, and conducted in a formal training setting at the field division or DEA Headquarters.

We found that TR has not developed a comprehensive training program for Evidence Custodians. Officials from TR asserted that the DEA does not need a training program because Special Agents receive six hours of evidence training at the DEA Academy, reinforced by practical exercises, which is sufficient for performing custodial duties. According to officials from OM, non-agent Evidence Custodians do not require comprehensive training because they receive formal training on how to operate ENEDS.

We examined these two views and found that a comprehensive training program for Evidence Custodians is still needed for four reasons. First, DEA’s evidence training at the Academy focuses only on the collection, assembly, packaging, and transportation of evidence collected in the field to

the evidence room. Academy training does not cover processing and maintaining custody of evidence once it is submitted to the Evidence Custodian. Second, Evidence Custodians told us that although ENEDS training was very good, they would benefit from formal Evidence Custodian training covering custodial duties and responsibilities. Third, DEA officials in the field told us that Special Agent and non-agent Evidence Custodians are often inexperienced, and fourth, they also told us that Evidence Custodian turnover in some offices is frequent, especially for Special Agents, which increases the likelihood of mistakes in evidence handling.

Custodial Accountability Problems Persist in the DEA's Evidence Program. To determine the current state of the evidence program, we examined reports from DEA internal inspections conducted at 13 field divisions from June 2001 through January 2003 and found that the field divisions continued to have problems with evidence accountability. Our analysis showed that more than half of the DEA's field divisions were cited for evidence program deficiencies related to drugs and monies. We found that the deficiencies existed in field divisions of every size. These problems persist despite annual field division reviews of its evidence program using Office of Inspections' checklists, despite each Division's certification that deficiencies were corrected, and despite the use of ENEDS by all field divisions.

The Office of Inspections cited 8 of the 13 field divisions (62 percent) for drug evidence infractions including improperly processed exhibits; problems with the forms that track the acquisition, transfer, and destruction of drugs; discrepancies in the seizure, submission, and reporting of drug and non-drug evidence; no logbooks or improperly maintained logs; improper temporary drug storage; and no annual inventory or failure to reconcile inventory discrepancies. Below are two recent examples of custodial accountability deficiencies for seized drugs identified by the Office of Inspections since June 2001.

- In Denver, Colorado, members of a task force group routinely maintained unprocessed drug and non-drug evidence for one to two days in their respective hotel rooms while working on a temporary duty assignment. DEA policy strictly prohibits maintaining drug evidence in unsecured locations even on temporary duty (January 2002).
- In Des Moines, Iowa, the Resident Office lacked a facility or safe dedicated to the temporary storage of drug evidence and did not maintain a current logbook. In addition, the Drug Evidence Custodian inappropriately recorded bulk marijuana, drug

evidence, and seized monies in the same bound ledger, contrary to DEA policy (September 2002).

Three of the 13 field divisions (23 percent) received SOFs related to seized monies. The most serious infraction was the use of non-DEA employees as custodians. Other infractions were Seized and Recovered Monies Custodians improperly processing seized monies, no logbooks or improperly maintained logbooks, commingling of seized monies with recovered monies; improper storage or maintenance of monies; and no required audits of monies. Although the rate of cash-related deficiencies was lower than the 48 percent rate reported by the DEA in 2001, the reported deficiencies remain serious. Below are two recent examples of custodial accountability deficiencies for seized monies identified by the Office of Inspections since June 2001.

- At the Savannah, Georgia, Resident Office, the Seized and Recovered Monies Custodian was not receiving the seized monies checks. Instead, the Special Agents transported seized monies to the bank for conversion to a cashier's check and transferred the check to a contract employee. The contract employee mailed the check to the U.S. Marshals Service (October 2002).
- In Charleston, South Carolina, office staff could not locate any previous logbooks for the Office of Inspections. In violation of DEA policy, the Seized and Recovered Monies Custodian was a contract employee and did not maintain a bound ledger. Instead, the custodian recorded entries in an Excel spreadsheet (October 2002).

We also found that the Office of Inspections continues to find improperly maintained logbooks. In 5 of the 13 field divisions (38 percent), logbooks for seized drugs or monies were either maintained improperly or not maintained at all. For example:

At the Cheyenne, Wyoming, Resident Office, Evidence Custodians were commingling drug and non-drug evidence in the same logbook. Also, the temporary logbook did not document the transfer of evidence into or out of the custody of the Evidence Custodian (October 2002).

The DEA imposed discipline in five cases for the loss of seized drugs or monies since June 2001. In 1999, the GAO reported that DEA evidence accountability weaknesses increase the potential for theft, misuse, or loss of such evidence and could compromise it for federal prosecutions. The DEA responded to the GAO and stated that it maintains the integrity of evidence

at all times through a series of redundant controls which ensure that shortcomings in one control will not result in an accountability problem. As an example of its redundant controls, the DEA stated that Evidence Custodians record the transfer of evidence on several different forms, thus ensuring that recordkeeping errors can be resolved by comparing forms.

We examined all OPR investigative files involving allegations of lost drugs or monies in DEA custody since June 2001, and found that the DEA imposed discipline in five cases involving accountability deficiencies leading to the loss of seized drugs or monies.¹³ Below are two case examples.

- In 2001, a DEA laboratory's annual inventory found that two drug exhibits were missing (29.2 grams and 1.1 grams of methamphetamine). A laboratory employee mailed the two drug exhibits to a Special Agent's personal address for an upcoming trial without the proper authorization. The Special Agent retained the exhibits in his Official Government Vehicle at the airport during an out-of-town trip, and later placed the exhibits in his desk. Four months later, the DEA laboratory requested the return of the exhibits and the Special Agent could not find them.
- In 2002, the OPR investigated a cash seizure that had a \$1,000 discrepancy. A DEA Task Force Officer accepted a large cash seizure from a local police officer who had made a traffic stop arrest. The DEA Task Force Officer placed the cash in a self-sealing evidence bag on the scene and followed DEA policy by not counting the cash. However, the Task Force Officer issued a receipt to the local police officer for a specific amount, rather than an "undetermined amount of U.S. currency" per DEA policy. Later, the Task Force Officer transported the sealed cash evidence to the bank alone, also in violation of DEA policy.

The DEA's accountability problems do not appear to have impacted ongoing prosecutions. To examine whether the DEA's continuing custodial accountability problems have compromised evidence for federal prosecutions, we surveyed 422 AUSAs responsible for prosecuting federal drug and asset forfeiture cases. We received responses from 120 AUSAs in 77 of the 94 judicial districts. All AUSAs reported they believed that the

¹³ OPR categorizes the allegations as "Loss or Theft of Drug Evidence" and "Loss or Theft of Defendant's Property/Funds." We eliminated cases in which the loss or theft drugs or monies was beyond the DEA's control, and the allegation was not substantiated by the OPR's investigation and the DEA disciplinary process.

DEA safeguards the integrity of seized drugs and monies, and none of the AUSAs identified a case in which the integrity of the DEA's custodial accountability had resulted in the failure of the prosecution. However, some of the AUSAs reported that they had identified one or more cases in which they had problems with DEA recordkeeping. Specifically, 12 percent of the AUSAs cited problems with seized drugs, mainly for inaccurate and incomplete recordkeeping and 5 percent reported problems in cases involving seized monies, mainly for inaccurate recordkeeping. We followed up by interviewing five AUSAs that reported problems with DEA's custodial accountability and found that the incidents were minor and correctable.

Office of Inspections' Recommendations Remain Valid. Because two years have passed since the DEA Administrator approved the Office of Inspections' recommendations, we evaluated whether the DEA should implement the remaining four recommendations. We concluded that the original recommendations are still valid. First, the DEA should ensure that all Evidence Custodians have pre-printed logbooks because the Office of Inspections continues to find problems with logbooks during field inspections. Using pre-printed logbooks would help resolve some of the problems identified by the Office of Inspections by ensuring that all Evidence Custodians use the same data fields to track evidence in their custody. Second, the DEA should appoint an expert point-of-contact for evidence to respond to inquiries regarding evidence. Evidence Custodians seek assistance from other Evidence Custodians because they have experience and expertise that OM does not have for interpreting guidance in the *Special Agents Manual*. As a consequence, Evidence Custodians receive guidance from other Evidence Custodians that may or may not be correct, and DEA Headquarters does not have the opportunity to provide uniform guidance, track questions, and identify common trends to improve DEA evidence handling policies in the *Special Agents Manual*.

Third, the DEA should develop a handbook for Evidence Custodians because the *Special Agents Manual* does not outline standard operating procedures specifically for Evidence Custodians. In addition, some Evidence Custodian positions in smaller offices have frequent turnover, and an Evidence Custodian Handbook would provide greater uniformity in evidence handling. Fourth, the DEA should provide comprehensive training for Evidence Custodians because given the lack of available formal training, several DEA field divisions have developed their own written guidance and training for Evidence Custodians. This results in Evidence Custodian guidance and training that vary in quality and uniformity throughout the DEA. In contrast, the FBI provides all of its Evidence Custodians with a booklet regarding pertinent evidence handling sections from its *Manual of*

Administrative Procedures, and mandatory in-service training for one week. The FBI also ensures that alternate Evidence Custodians receive training, as well as Evidence Custodian supervisors.

Evidence Custodian feedback on guidance and training. During our interviews, we asked Evidence Custodians (Special Agents and non-agents) to rank the evidence handling guidance found in the *Special Agents Manual* using a 1 to 5 scale, with 1 being poor and 5 being superior. The average rank was 3. Evidence Custodians told us that the *Special Agents Manual* was not specific or clear enough for them to perform their duties, and several items needed clarification. Several Evidence Custodians stated that an Evidence Custodian Handbook would be valuable for three reasons:

1. The *Special Agents Manual* is designed to instruct Special Agents how to process evidence into custody. It does not clearly instruct Evidence Custodians on how to receive, safeguard, track, and dispose of evidence and account for evidence completely, accurately, and promptly.
2. Some Evidence Custodian positions in smaller offices have frequent turnover, and sometimes inexperienced personnel without even informal training are assigned to fill the position.
3. An Evidence Custodian Handbook would provide greater uniformity in evidence handling.

Evidence Custodians suggested that the DEA create a handbook covering standard operating procedures for their position, describing important “do’s and don’ts” when maintaining custody of evidence, listing common errors made by Evidence Custodians, and providing examples of DEA forms with errors made by Special Agents or Task Force Officers. In one field division, an Evidence Custodian told us that her office created its own handbook to address these issues.

With regard to training, several of the Evidence Custodians, both newly hired and long-term employees, said that they would have benefited from formal Evidence Custodian training covering their duties and responsibilities. One Evidence Custodian told us that her training consisted of on-the-job instruction from a student aide for one week. Another told us that the extent of her training was receiving a copy of the *Special Agents Manual*, while another reported that she was sent to another field division for instruction. An Evidence Custodian with more than a decade of experience stated that it did not make organizational sense for the DEA to

offer formal classroom training to administrative assistants but not to Evidence Custodians who are responsible for maintaining custodial accountability over evidence.

Field division guidance and training efforts. We found that in the absence of a standard Evidence Custodian Handbook, field divisions have individually attempted to improve guidance and training for Evidence Custodians, which has led to inconsistent evidence handling practices and training. In the Atlanta and Seattle field divisions, for instance, SACs provide Evidence Handling Division Orders to their Evidence Custodians to help them perform their duties. These Division Orders offer much of the information that Evidence Custodians told us was missing from the *Special Agents Manual*. For example:

- The Atlanta, Georgia, field division issued three Division Orders that provide additional guidance for its Evidence Custodians. “Bulk Drug Evidence Procedures” provides guidance on inventorying, transferring, and destroying bulk drugs. “Monies Seized for Forfeiture-Non Evidentiary” instructs Evidence Custodians on the forms they must receive from the case agent or seizing agent for forfeiture and deadlines for processing custodial paperwork. This Order also provides a table listing the exact information required in the evidence logbook. “Handling of Seized and Recovered Monies and High Value Items” describes all of the necessary forms and steps that must be completed by the Evidence Custodian to process seized monies, especially if temporary storage is needed.
- The Seattle, Washington, field division issued two Division Orders that provide guidance to its Evidence Custodians. “Handling of Non-Drug Evidence” outlines how Evidence Custodians should handle forms, with a particular focus on required signatures, which forms to keep, and when and where to file them. “Handling of Non-Drug Evidence” also provides Evidence Custodians with the necessary information to perform their duties and ensure custodial accountability, and has a series of examples for Evidence Custodians to reference and follow.

In the absence of an agency-wide comprehensive training program, we found that field divisions ask their most experienced Evidence Custodians to train new employees, both Special Agent and non-agent. For example, an Evidence Custodian in San Diego told us that, although he had never received formal training, he had independently developed an Evidence

Custodian training program. Another Evidence Custodian informed us that he was invited by two divisions to train their Evidence Custodians and help prepare them for a field inspection. Sometimes, field divisions will send their new Evidence Custodians to another division for training by an experienced Evidence Custodian. This practice results in Evidence Custodian training that varies in quality and uniformity throughout the DEA. For instance, an Office of Inspections team found that bulk marijuana evidence was not being processed in compliance with DEA policies and procedures, and had to train four Bulk Drug Evidence Custodians.

Impact. In the absence of adequate guidance and training, DEA Evidence Custodians sometimes violate important policies and procedures designed to ensure the chain-of-custody for evidence. In one disciplinary case we reviewed, the DEA identified the lack of a guidance and training for Evidence Custodians as one reason for the loss of drug evidence.

In 2001, a DEA Special Agent and a DEA Task Force Officer lost two grams of cocaine from the Houston Field Division. After receiving the cocaine from the U.S. Border Patrol, they put it into temporary storage at the Houston district office. Four days later, the Special Agent, who also was an alternate Evidence Custodian, retrieved the drug exhibit from the vault without logging it out, and gave the exhibit to the Task Force Officer without documenting the transfer. Both officers prepared the cocaine for shipment to the DEA laboratory by placing it in an open and unattended box at the resident office, along with other drug exhibits awaiting shipment to the DEA laboratory. The laboratory never received the cocaine. OPR concluded that the exhibit was lost because the Special Agent failed to log the evidence out of the vault, document the transfer of custody, and secure the box.

As described in the OPR investigation, the Special Agent and Task Force Officer lost the evidence because they were not familiar with Evidence Custodian responsibilities and had not been trained thoroughly. The Special Agent had served six months as an alternate Drug Evidence Custodian, but had received only one day of informal instruction provided by the primary Drug Evidence Custodian.¹⁴ This case demonstrates that by improving the guidance and training offered to personnel charged with the receipt, safeguarding, and tracking of evidence, DEA field divisions can

¹⁴ In November 1999, the Office of Inspections cited the Houston Field Division for its custodial accountability deficiencies. In 2001, custodial accountability deficiencies led to the loss of drug evidence in the case listed above. In July 2002, the Office of Inspections again cited the Houston field division for its custodial accountability deficiencies.

improve their custodial accountability and compliance with DEA policies and procedures.

CONCLUSIONS AND RECOMMENDATIONS

Four years after the GAO reported that the DEA needed to strengthen accountability for drug evidence, and two years after the DEA conducted its own review and identified recurring deficiencies that contribute to custodial accountability problems, we found that the Office of Inspections continues to regularly report deficiencies in the DEA's evidence program during its internal inspections of field divisions. We also found that the DEA failed to correct the deficiencies identified as contributing to custodial accountability problems in the field because the DEA has not followed its own Office of Inspections' recommendations to create an Evidence Custodian Handbook, ensure that pre-printed logbooks are used in all Divisions, increase Headquarters support, and develop training to improve its evidence program. Although these recommendations would help Evidence Custodians preserve the chain-of-custody for evidence and help protect evidence against the risk of theft, misuse, or loss, the DEA told us that implementing these recommendations was not necessary.

We believe that the DEA still needs to implement the Office of Inspections' recommendations from 2001. First, evidence problems persist. Second, Evidence Custodians told us that an Evidence Custodian Handbook and formal training would help them perform their duties. Third, some field divisions have acted to improve guidance and training for their Evidence Custodians, which has resulted in guidance and training that varies in quality and uniformity throughout the DEA. Since Evidence Custodians are critical to maintaining the chain-of-custody for evidence, DEA Headquarters, not field divisions, should lead the effort to improve the resources available to Evidence Custodians and ensure uniform standards. By improving the resources offered to Evidence Custodians charged with receiving, safeguarding, tracking, and disposing of evidence, the DEA would reduce the potential for theft, misuse, or loss of seized drugs or monies.

RECOMMENDATIONS

We are making two recommendations for the DEA to improve custodial accountability over seized drugs and monies. We recommend that the DEA:

1. Implement the Office of Inspections' four remaining recommendations by:
 - a. Developing an Evidence Custodian Handbook,

-
- b. Requiring Evidence Custodians to use pre-printed logbooks,
 - c. Identifying and designating a DEA employee with evidence custodian expertise to serve as the point-of-contact for all Evidence Custodians, and
 - d. Developing a comprehensive training program for personnel assigned Evidence Custodians duties.
2. Verify during field inspections that Evidence Custodians have an Evidence Custodian Handbook, use pre-printed logbooks, know the point-of-contact for evidence issues, and attend appropriate Evidence Custodian training.

APPENDIX I: DEA OFFICE OF INSPECTIONS' RECOMMENDATIONS

The Office of Inspections made six recommendations to improve the DEA's custodial accountability for evidence. They were:

Recommendation 1: The Office of Resource Management should conduct a workload/staffing analysis related to the custodial duties for handling evidence in the field division offices to include drug/bulk drug, non-drug evidence, seized monies and recovered monies held for evidence. The analysis should specifically address the workload issues of the division office custodians and the collateral duties of the Special Agents.

Recommendation 2: The Office of Resource Management should conduct a workload/staffing analysis, assessing the duties for handling evidence in the Southwest Border resident offices, specifically addressing the manpower issues and the need for full-time Evidence Custodians for handling bulk marijuana.

Recommendation 3: The Office of Operations Management should produce an Evidence Custodian Handbook for the use of personnel assigned custodial duties in the program areas of drug evidence, bulk drug evidence, non-drug evidence, seized monies, and recovered monies. The handbook should establish a comprehensive set of policies and standard operating procedures that ensure uniformity and assist the custodians with ensuring proper accountability.

Recommendation 4: Field division offices should obtain pre-printed logbooks for all required logs to ensure standardization and proper evidence accountability and to meet audit requirements.

Recommendation 5: The DEA should identify a single point-of-contact (expert on drug/bulk drug, and non-drug evidence, including seized monies and Official Advance Funds) at DEA Headquarters to respond to inquiries regarding evidence.

Recommendation 6: The Office of Training, in conjunction with the Office of Operations Management, should develop a comprehensive training program for personnel assigned custodial duties in the program areas of drug evidence, bulk drug evidence, non-drug evidence, seized monies, and recovered monies. Formal training should be mandatory for all Evidence Custodians, scheduled within three months of assignment, and conducted in a formal training setting, the field division, or DEA Headquarters.

APPENDIX II: OIG SURVEY INSTRUMENT

The Office of the Inspector General (OIG), Evaluation and Inspections Division is initiating a review of the accountability controls used by the Drug Enforcement Administration (DEA) to protect seized drugs and cash placed in DEA facilities for analysis and safekeeping. The purpose of the review is to assess the adequacy of DEA controls for the receipt, security, and final disposition of seized drugs and cash.

This survey refers to chain-of-custody problems for drug evidence and cash seized either during DEA-controlled investigations or submitted into the DEA's custody by other Federal, state, or local law enforcement agencies. Please consider the following:

- DEA seized drug evidence handling from the initial point of seizure through any subsequent transfers in the DEA chain-of-custody.
- DEA seized cash chain-of-custody problems up to, but not including, asset forfeiture procedures.

Note: We are not reviewing seized drug evidence chain-of-custody problems attributed to the DEA's forensic laboratories' chain-of-custody.

Please click on the appropriate response box (an "X" will appear) or click on the text box area and then enter your text answer. Upon completion, forward the saved electronic file containing your responses to

SURVEY.OIG-USA@USDOJ.GOV (Or select "OIG-USA" in the Department's Microsoft Outlook Address Book)

Name

Title

District

Phone

1) Do you believe that the DEA safeguards the integrity of the chain-of-custody for:

a Seized Drug Evidence?

Yes No



i) Seized Bulk Amount Drug Evidence (e.g., bulk marijuana)?

Yes No

b Seized Cash Evidence?

Yes No

c Comments (Question # 1 Above):

2) Have you encountered any of the following DEA chain-of-custody problems during Federal prosecutions for:

a Seized Drug Evidence?

Incomplete Documentation Yes No

Inaccurate Record keeping (e.g., weights or descriptions) Yes No

Missing Records Yes No

Inadequate physical safeguards Yes No

Inadequate storage facilities Yes No

Theft Yes No

Loss Yes No

Inappropriate Destruction Yes No

Other Yes No

i) Seized Bulk Amount Drug Evidence (e.g., bulk marijuana)?

Incomplete Documentation Yes No

Inaccurate Record keeping (e.g., weights or descriptions) Yes No

Missing Records Yes No

Inadequate physical safeguards Yes No

Inadequate storage facilities Yes No

Theft Yes No

Loss Yes No

Inappropriate Destruction Yes No

Other Yes No

b Seized Cash Evidence?

Incomplete Documentation Yes No

Inaccurate Record keeping Yes No

(e.g., counts)

- | | | | | |
|--------------------------------|-----|--------------------------|----|--------------------------|
| Missing Records | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Inadequate physical safeguards | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Theft | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Loss | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Other | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

c Comments (Question # 2 Above):

3) Have your Federal prosecution(s) been adversely impacted due to DEA chain-of-custody problems involving:

a Seized Drug Evidence?

Yes No

i) Seized Bulk Drug Evidence (e.g., bulk marijuana)?

Yes No

b Seized Cash Evidence?

Yes No

c Comments (Question # 3 Above):

4) Have criminal defense attorneys been successful in challenging the integrity of the DEA's chain-of-custody in your prosecutions which featured:

a Seized Drug Evidence?

Yes No

i) Seized Bulk Drug Evidence (e.g., bulk marijuana)?

Yes No

b Seized Cash Evidence?

Yes No

c Comments (Question # 4 Above):

5) Please identify any general concerns with, or suggestions to improve the DEA's handling of seized drugs or seized cash.

APPENDIX III: THE DEA'S RESPONSE



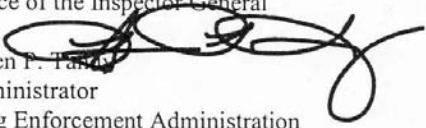
U. S. Department of Justice
Drug Enforcement Administration

www.dea.gov

JAN 09 2004

MEMORANDUM FOR THE OFFICE OF THE INSPECTOR GENERAL

TO: Paul A. Price
Assistant Inspector General for Evaluation and Inspections
Office of the Inspector General

FROM: 
Karen P. Tandy
Administrator
Drug Enforcement Administration

SUBJECT: Draft Audit Report: *Review of the Drug Enforcement Administration's Custodial Accountability for Evidence Held at the Field Divisions, A-2003-007*

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice, Office of the Inspector General's (OIG) draft audit report entitled, *Review of the Drug Enforcement Administration's Custodial Accountability for Evidence Held at the Field Divisions, A-2003-007*. DEA provides the following comments, as requested in your memorandum dated December 19, 2003.

DEA concurs with the recommendations resulting from this audit, most of which were previously identified independently by DEA's internal inspections. Based on both our review of the draft audit report and our discussions with OIG representatives, it appears that the current findings are focused on strengthening our existing management procedures, specifically related to evidence in the custody of Field Divisions. I was pleased to note that of 422 Assistant United States Attorneys surveyed by your office, all respondents reported they believe DEA safeguards the integrity of seized drugs and monies, and no respondent identified a case in which the integrity of DEA's custodial accountability resulted in the failure of the prosecution. I am confident that the corrective actions outlined in the attached action plan will not only strengthen the integrity of our evidence procedures at the division-level, but ensure federal prosecutions resulting from DEA investigations will continue to be successful.

DEA has completed a sensitivity review of the draft audit report. This information will be provided under separate cover.

Documentation detailing DEA's efforts to implement the action plan will be provided to OIG until all corrective actions are employed. If you have any questions regarding this information, please contact Audit Liaison Sheldon Shoemaker at (202) 307-4205.

Attachment

ACTION PLAN

**REVIEW OF THE DRUG ENFORCEMENT ADMINISTRATION'S CUSTODIAL ACCOUNTABILITY
FOR EVIDENCE HELD AT THE FIELD DIVISIONS (A-2003-007)**

Recommendations	Actions Planned	Projected Completion Date
<p>1. Implement the Office of Inspections' four remaining recommendations by:</p> <p>a. Developing an Evidence Custodian Handbook</p>	<p>Policy pertaining to the processing, storage and reporting of bulk drugs and non-drug evidence can be found in the DEA Agents Manual. The Office of Operations Management (OM) is currently working on revising sections of the Agents Manual pertaining to drug and non-drug evidence, including seized monies (subchapters 6662 and 6681, respectively). OM will expand those sections to include more detailed instructions for evidence custodians, as well as field agents and task force officers, regarding the processing, storage, reporting and accounting of evidence. OM is currently working on the establishment of an Operations Division website on DEA's intranet. The website will include a frequently asked questions (FAQs) section, where DEA personnel can go to get answers to questions pertaining to evidence processing, storage and reporting. The answers to questions will be directly linked to pertinent sections of the Agents Manual.</p>	<p>March 2004</p>
<p>b. Requiring Evidence Custodians to use pre-printed logbooks</p>	<p>Policy pertaining to logbooks will be updated to mandate the use of pre-printed logbooks. A teletype will be sent to DEA field offices implementing the new policy and providing guidance on acquiring these ledgers. This policy will then be incorporated into the revised non-drug evidence section of the <i>DEA Agents Manual</i>. It must also be noted that it is anticipated that DEA's Enhanced Non-Drug Evidence Database System (ENEDS), which tracks bulk drug evidence and non-drug evidence (evidence maintained by the Field Division Offices), will be centralized at DEA Headquarters within FY 2005. The primary goals of a centralized ENEDS are the utilization of electronic logbooks, the eventual elimination of bound paper/pre-printed logbooks and more accurate tracking and accounting of non-drug evidence.</p>	<p>May 2004</p>
<p>c. Identifying and designating a DEA employee with evidence custodian</p>	<p>DEA's point of contact for operational policy is the Office of Operations Management's Policy and Procedures Section (OMM).</p>	<p>February 2004</p>

<p>expertise to serve as the point-of-contact for all Evidence Custodians</p>	<p>OMM sets the policy for evidence processing, storage and reporting. OMM staff coordinators are supervisory special agents with evidence related experience initially as field agents, then as supervisors and sometimes as former non-drug evidence custodians. Supervisory Special Agent Staff Coordinators are responsible for responding to policy and procedural questions from field personnel, as well as evidence custodians. Staff coordinators are assigned to OMM on a rotating basis, and therefore, it is not feasible to designate a single DEA employee as a point-of-contact (POC) for field evidence custodians. Instead, OMM will issue a teletype to the field reaffirming OMM as the HQS office responsible for evidence handling questions. This teletype will include OMM positions and telephone numbers, as well as the current names of the Section Chief and Staff Coordinators. This information will also be included and kept current on the new Operations Division website. Additionally, any technology questions regarding ENEDS will be addressed by the Office of Information Technology (SI) and questions regarding the financial reporting of bulk marijuana and high-value items will be addressed by the Office of Finance (FN).</p>	<p>August 2004</p>
<p>d. Developing a comprehensive training program for personnel assigned Evidence Custodians duties</p>	<p>The Office of Training (TR) will work with OM and other Evidence Custodian/Evidence Handling Subject Matter Experts (SME's) to develop a task list and learning objectives for the Evidence Custodian Training program. TR, in concert with these SME's, will develop appropriate lesson plans and instructional materials for the new training program. A pilot training course will then be conducted with appropriate assessments, to ensure that essential and effective job-related training occurs.</p>	<p>Annually</p>
<p>2. Verify during field inspections that Evidence Custodians have an Evidence Custodian Handbook, use pre-printed logbooks, know the point-of-contact for evidence issues, and attend appropriate Evidence Custodian training.</p>	<p>All DEA entities, foreign and domestic are required to complete a Division Inspection annually. This report is due into the Office of Inspections (IN) on September 1 each year. One of the mandated programs in the Division Inspection is the evidence program, both drug and non-drug. The DEA Agents Manual also requires a 100% annual inventory of all drug and non-drug evidence (including seized and recovered monies). IN reviews these annual reports, and they are used by IN when it conducts its On-Site Inspections every 36 months.</p>	<p>Annually</p>

APPENDIX IV: THE OIG'S ANALYSIS OF THE DEA'S RESPONSE

On December 19, 2003, the Office of the Inspector General (OIG) sent a copy of the draft report to the Administrator for the Drug Enforcement Administration (DEA) with a request for written comments. The Administrator responded to us in a memorandum dated January 9, 2004. The DEA concurred with all of the recommendations, and agreed with the OIG that it could strengthen existing management procedures for evidence in the custody of its field divisions. The DEA also recognized that improving its custodial accountability will ensure integrity of evidence used in federal prosecutions resulting from DEA investigations. Our analysis of the DEA's response follows.

RECOMMENDATIONS

Recommendation 1: Implement the DEA Office of Inspections' four remaining evidence program recommendations by:

- a. Developing an Evidence Custodian Handbook,
- b. Requiring Evidence Custodians to use pre-printed logbooks,
- c. Identifying and designating a DEA employee with evidence custodian expertise to serve as the point-of-contact for all Evidence Custodians, and
- d. Developing a comprehensive training program for personnel assigned Evidence Custodians duties.

Status: Resolved – Open.

Summary of DEA's Response: The DEA concurred with the recommendation and agreed to:

- a. Expand policy pertaining to the processing, storage, reporting and accounting of bulk drugs and non-drug evidence in the *DEA Agents Manual* to include more detailed instructions for Evidence Custodians, as well as field agents and task force officers. Establish an Operations Division website on DEA's intranet website to include a frequently-asked-questions section

where DEA personnel can get answers to questions pertaining to evidence processing, storage, and reporting;

- b. Update policy pertaining to logbooks to mandate the use of pre-printed logbooks, incorporate the policy in the *DEA Agents Manual*, and send a teletype to the field offices providing guidance on acquiring pre-printed logbooks;
- c. Issue a teletype to the field reaffirming that the Operations Management's Policy and Procedures Section (OMM) is the headquarters office responsible for evidence handling questions and providing appropriate staff names and numbers, which also will be kept current on the Operations Division intranet website; and
- d. Develop a task list, learning objectives, lesson plans, and instructional materials for a new Evidence Custodian training program, and then pilot test the program with the appropriate assessments.

OIG's Analysis: We consider the recommendation resolved, but will keep it open until the DEA provides us with a copy of the following items:

- a. Expanded policy pertaining to the processing, storage, reporting and accounting of bulk drugs and non-drug evidence. Also, a copy of the Operations Division website and frequently asked questions section on the DEA's intranet website;
- b. Updated policy mandating the use of pre-printed logbooks;
- c. The teletype to the field reaffirming OMM as the headquarters office responsible for evidence handling questions; and
- d. The task list, learning objectives, lesson plans, and instructional materials for the pilot Evidence Custodian training program.

Recommendation 2: Verify during field inspections that Evidence Custodians have an Evidence Custodian Handbook, use pre-printed logbooks, know the point-of-contact for evidence issues, and attend appropriate Evidence Custodian training.

Status: Resolved – Open.

Summary of DEA’s Response: The DEA concurred with the recommendation and stated that all DEA entities are required to complete a division inspection annually. The DEA also requires that the Office of Inspections review the annual inspection reports when it conducts its On-Site Inspections every 36 months.

OIG’s Analysis: We recognize that the DEA conducts annual inspections and reviews the result of those inspections when it conducts its On-Site Inspections every 36 months. We will keep the recommendation open until the DEA provides us with a copy of updated inspection guidance that verifies Evidence Custodians:

- a. Have expanded policy on the processing, storage, reporting, and accounting of bulk drugs and non-drug evidence,
- b. Use pre-printed logbooks,
- c. Have the appropriate staff names and numbers at OMM for evidence handling questions, and
- d. Attend appropriate Evidence Custodian training.